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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,226	06/20/2001	Robert L. Payer	1065us	4417

25263 7590 08/09/2007  
J GRANT HOUSTON  
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EXAMINER
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HYEON, HAE M

ART UNIT	PAPER NUMBER
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2839

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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AUG -9 2007

In re Application of:  
PAYER et al.  
Serial No.: 09/885,226  
Filed: June 20, 2001  
Attorney Docket No.: 1065us

DECISION ON PETITION  
TO WITHDRAW HOLDING  
OF ABANDONMENT

This is a decision on the petition filed on December 30, 2005, to withdraw the holding of abandonment under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Office action mailed on April 07, 2005. A Notice of Abandonment was mailed on November 16, 2005.

The petition is granted to the extent that a response to the Office action was received in the USPTO on August 08, 2005. The response included a request for a one (1) month extension of time. Therefore, the application was prematurely held abandoned.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

It is further noted that on April 7, 2005, a Non-Final Office Action was mailed to the Applicant rejecting claims 1-26, and prosecution was re-opened. Subsequent to re-opening of the prosecution, on August 8, 2005, the Applicant filed a response entitled "Third Request To Reinstate Appeal".

MPEP 1204.01 states:

If an appellant wishes to reinstate an appeal after prosecution is reopened, appellant must file a new notice of appeal in compliance with 37 CFR 41.31 and a complete new appeal brief in compliance with 37 CFR 41.37. Any previously paid appeal fees set forth in 37 CFR 41.20 for filing a notice of appeal, filing an appeal brief, and requesting an oral hearing (if applicable) will be applied to the new appeal on the same application as long as a final Board decision has not been made on the prior appeal. If, however, the appeal fees


have increased since they were previously paid, then appellant must pay the difference between the current fee(s) and the amount previously paid. Appellant must file a complete new appeal brief in compliance with the format and content requirements of 37 CFR 41.37(c) within two months from the date of filing the new notice of appeal. See MPEP § 1205.

For this response to be complete, it must include a new notice of appeal in compliance with 37 CFR 41.31, and a complete new appeal brief in compliance with 37 CFR 41.37. The response does not include a new notice of appeal, nor a complete new appeal brief. As such, the response is incomplete and non-compliant.

It is also noted that the Appeal Brief filed 12/01/2003, and the subsequent Supplemental Appeal Brief filed 4/22/04, do not address issues raised in the Non-final rejection mailed 4/7/05, and as such, the application is not ready for forwarding to the Board.

Applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this decision, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Inquiries regarding this decision should be directed to Clayton E. LaBalle, TQAS, at (571) 272-1594.



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